IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1979 of 2005
To
FIRST APPEAL No. 1992 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPL.LAQ OFFICER - Appellant(s)

Versus

PITAMBER PARSOTTAMBHAI & 1 - Defendant(s)

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Appearance :
MR SIRAJ GORI, AGP for Petitioner No(s).: 1.
MR AJ PATEL for Respondent No(s).: 1.
None for Respondent No(s).: 2.
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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL

Date : 18/08/2005

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

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1. All these Appeals are admitted. Learned Counsel Shri A.J. Patel appeared and waived service for the respondent – claimants in all these Appeals. Respondent No.2 – Executive Engineer in all Appeals is formal party.

2. At the joint request of learned Counsel for the parties all these Appeals are taken up today for final disposal and disposed of by this common order as they arise out of the impugned common Judgment and Award dated 30.8.2002 passed by the learned 4th Extra Assistant Judge and Special Judge (L.A.R.), Ahmedabad (Rural) at Navrangpura, Ahmedabad, in LAR Nos.2779 to 2792 of 1996, whereby the learned Judge partly allowed all the reference cases filed by the respondent – claimants and held that the claimants would be entitled, in all, Rs.24/- per sq.mtr. The Land Acquisition Officer awarded only Rs.0.80 ps and, therefore, he has awarded a sum of Rs.23.20 ps per sq.mtr and also awarded further statutory benefit to the claimants. The same is challenged in these Appeals by the appellant – Special Land Acquisition Officer.

3. It was vehemently submitted by learned AGP Shri Gori for the appellants in all these Appeals that on one hand the Reference Court refused to place any reliance on the Judgment delivered by the Reference Court in LAR No.775 of 1995 (Ex.29) for village Dhandhuka and on the other hand, without any basis, all of a sudden jumped to the conclusion that the claimants will be entitled for rs.24/- per sq.mtr and accordingly awarded total compensation at the rate of Rs.24/- per sq.mtr. Shri Gori, learned AGP also submitted that in the instant case the claimants had claimed only Rs.8/- per sq.mtr before the Special Land Acquisition Officer, but after the LAO passed his Award on 31.12.1995, awarding Rs.0.80 ps per sq.mtr., they have claimed total compensation of Rs.50/- per sq.mtr before the Reference Court and the Reference Court has

awarded in all Rs.24/- per sq.mtr. He, therefore, submitted that at the most the Reference Court should have awarded total compensation at the rate of Rs.8/- per sq.mtr and not at the rate of Rs.24/- per sq.mtr. However, after considering other evidence on record learned AGP Shri Gori, on the instruction from the Officer concerned present before the Court, left it to the Court to award just and reasonable compensation to the claimants by submitting that this may not be cited as precedent in any other case where the lands are in the vicinity of Dhandhuka.

4. In view of the positive stand taken by the learned AGP and the Officer concerned before the court, learned Counsel Shri A.J.Patel, appearing for the respondent – claimants in all these Appeals, also left it to the Court to award just and reasonable compensation. Therefore, we have suggested Rs.18 per sq.mtr to both the learned Counsel for the parties which was immediately accepted by the learned Counsel for the parties.

5. In view of the above, the total compensation awarded at the rate of Rs.24/- per sq.mtr by the Reference Court to the claimants has to be reduced to Rs.18/- per sq.mtr.

6. Accordingly, all these Appeals are partly allowed to the extent that the total compensation awarded by the reference Court at the rate of Rs.24/- per sq.mtr is reduced to Rs.18/- per sq.mtr. Rest of the impugned common Judgment and Award passed by the Reference Court is not interfered. No order as to costs.

7. At this stage a request is made by learned counsel Shri Patel for the respondent – claimants that the Appellant be now directed to deposit the remaining amount of compensation before the Reference Court, as early as possible, in view of the fact that Section 4 notification was issued way back in 1993. Once the Appeals are disposed of by this court on judicial side keeping in mind the

spirit of Lok Adalat, then it is hope that the Appellant shall now deposit the balance amount before the reference Court as early as possible, preferably within six months from the date of receipt of the copy of this Judgment. On the amount being deposited, the Reference Court shall disburse the said amount by way of A/c Payee Cheque in the name of respondent – claimants in accordance with law.

(B.J.SHETHNA,J.)

(M.C.PATEL, J.)

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